

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 738**  
94TH GENERAL ASSEMBLY

---

Reported from the Committee on Agriculture, Conservation, Parks and Natural Resources, April 17, 2008, with recommendation that the Senate Committee Substitute do pass.

3345S.03C

TERRY L. SPIELER, Secretary.

---

**AN ACT**

To repeal sections 643.151 and 644.076, RSMo, and to enact in lieu thereof two new sections relating to recycling companies that convert animal parts into petroleum, with penalty provisions.

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 643.151 and 644.076, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 643.151 and 644.076, to read as follows:

643.151. 1. It is unlawful for any person to cause or permit any air pollution by emission of any air contaminant from any air contaminant source located in Missouri, in violation of sections 643.010 to 643.190, or any rule promulgated by the commission.

2. No person who knows or should know of the existence of such rules may cause or permit any air pollution by emission of any air contaminant source located outside Missouri, and which emissions enter Missouri in excess of the emission control regulations applicable to the portion of Missouri where the air contaminant enters the state.

3. In the event the commission determines that any provision of sections 643.010 to 643.190, or the rules promulgated hereunder, permits issued, or any final order or determination made by the commission or the director is being violated, the commission may cause to have instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violation or for the assessment of a penalty not to exceed ten thousand dollars for each violation per day for each day, or part thereof, the violation continues to occur,

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 or both, as the court may deem proper. A civil monetary penalty under this  
18 section shall not be assessed for a violation where an administrative penalty was  
19 assessed under section 643.085. The commission may request the attorney  
20 general or other counsel to bring such action in the name of the people of the  
21 state of Missouri. Process may be served in any manner provided by chapter 506,  
22 RSMo, including but not limited to sections 506.510 and 506.520, RSMo. Suit  
23 may be brought in any county where the defendant's principal place of business  
24 is located or where the air contaminant source is located or where the air  
25 contaminants enter the state of Missouri. Any offer of settlement to resolve a  
26 civil penalty under this section shall be in writing, shall state that an action for  
27 imposition of a civil penalty may be initiated by the attorney general or a  
28 prosecuting attorney representing the department under authority of this section,  
29 and shall identify any dollar amount as an offer of settlement which shall be  
30 negotiated in good faith through conference, conciliation and persuasion.

31 **4. Any recycling company that converts animal parts into**  
32 **petroleum that the commission or the director determines to be in**  
33 **persistent violation of the provisions of this section or any odor rule**  
34 **promulgated by the department shall forfeit any permits issued by the**  
35 **department under this chapter or chapter 644, RSMo, until such time**  
36 **that the recycling company that converts animal parts into petroleum**  
37 **successfully reapplies for a new permit. For the purposes of this**  
38 **subsection, the term "persistent violation" shall mean any recycling**  
39 **company that converts animal parts into petroleum that has been found**  
40 **by the commission or the director to have violated the provisions of**  
41 **this section at least six times during any twelve-month period or at**  
42 **least twelve times during any thirty-six-month period.**

43 **5. During any thirty-six-month period, any recycling company**  
44 **that converts animal parts into petroleum that the commission or**  
45 **director has found to have violated the provisions of this section on**  
46 **more than one occasion shall be subject to a surcharge in addition to**  
47 **the civil penalties assessed under subsection 3 of this section. The**  
48 **surcharge shall be an amount equal to the sum of the penalty assessed**  
49 **under subsection 3 of this section for the current citation plus all the**  
50 **finer assessed against the violator during the thirty-six-month period**  
51 **prior to the date the citation was issued.**

52 **6. The proceeds of any surcharge assessed under subsection 5 of**

53 **this section shall be deposited into the "Air Pollution Enforcement**  
54 **Fund", which is hereby established and shall be administered by the**  
55 **department. One half of all moneys in the fund shall be utilized**  
56 **exclusively to enforce the provisions of this section and one half of all**  
57 **moneys in the fund shall be transferred at least annually to the state**  
58 **school moneys fund as established in section 166.051, RSMo, and**  
59 **distributed to the public schools of this state in the manner provided**  
60 **in section 163.031, RSMo.**

61 **7. Notwithstanding the provisions of section 33.080, RSMo,**  
62 **moneys in the air pollution enforcement fund shall not revert to**  
63 **general revenue. The state treasurer shall invest the moneys from the**  
64 **fund in the same manner as other state funds are invested. Interest**  
65 **accruing to the fund shall be deposited in the fund and shall not be**  
66 **transferred to general revenue.**

67 **8. Any member of the commission or employee thereof who is convicted**  
68 **of willful disclosure or conspiracy to disclose confidential information to any**  
69 **person other than one entitled to the information under sections 643.010 to**  
70 **643.190 is guilty of a class A misdemeanor and upon conviction thereof shall be**  
71 **punished by a fine of not more than one thousand dollars.**

72 **[5.] 9. No liability shall be imposed upon persons violating the provisions**  
73 **of sections 643.010 to 643.190 or any rule hereunder due to any violation caused**  
74 **by an act of God, war, strike, riot or other catastrophe.**

644.076. 1. It is unlawful for any person to cause or permit any discharge  
2 of water contaminants from any water contaminant or point source located in  
3 Missouri in violation of sections 644.006 to 644.141, or any standard, rule or  
4 regulation promulgated by the commission. In the event the commission or the  
5 director determines that any provision of sections 644.006 to 644.141 or standard,  
6 rules, limitations or regulations promulgated pursuant thereto, or permits issued  
7 by, or any final abatement order, other order, or determination made by the  
8 commission or the director, or any filing requirement pursuant to sections  
9 644.006 to 644.141 or any other provision which this state is required to enforce  
10 pursuant to any federal water pollution control act, is being, was, or is in  
11 imminent danger of being violated, the commission or director may cause to have  
12 instituted a civil action in any court of competent jurisdiction for the injunctive  
13 relief to prevent any such violation or further violation or for the assessment of  
14 a penalty not to exceed ten thousand dollars per day for each day, or part thereof,

15 the violation occurred and continues to occur, or both, as the court deems proper.  
16 A civil monetary penalty pursuant to this section shall not be assessed for a  
17 violation where an administrative penalty was assessed pursuant to section  
18 644.079. The commission, the chair of a watershed district's board of trustees  
19 created under section 249.1150, RSMo, or the director may request either the  
20 attorney general or a prosecuting attorney to bring any action authorized in this  
21 section in the name of the people of the state of Missouri. Suit may be brought  
22 in any county where the defendant's principal place of business is located or  
23 where the water contaminant or point source is located or was located at the time  
24 the violation occurred. Any offer of settlement to resolve a civil penalty pursuant  
25 to this section shall be in writing, shall state that an action for imposition of a  
26 civil penalty may be initiated by the attorney general or a prosecuting attorney  
27 representing the department pursuant to this section, and shall identify any  
28 dollar amount as an offer of settlement which shall be negotiated in good faith  
29 through conference, conciliation and persuasion.

30 **2. Any recycling company that converts animal parts into**  
31 **petroleum that the commission or the director determines to be in**  
32 **persistent violation of the provisions of this section shall forfeit any**  
33 **permits issued by the department under this chapter or chapter 643,**  
34 **RSMo, until such time that the recycling company that converts animal**  
35 **parts into petroleum successfully reapplies for a new permit. For the**  
36 **purposes of this subsection, the term "persistent violation" shall mean**  
37 **any recycling company that converts animal parts into petroleum that**  
38 **the commission or the director has found to have violated the**  
39 **provisions of this section at least six times during any twelve-month**  
40 **period or at least twelve times during any thirty-six-month period.**

41 **3. During any thirty-six-month period, any recycling company**  
42 **that converts animal parts into petroleum that the commission or**  
43 **director has found to have violated the provisions of this section on**  
44 **more than one occasion shall be subject to a surcharge in addition to**  
45 **the civil penalties assessed under subsection 1 of this section. The**  
46 **surcharge shall be an amount equal to the sum of the penalty assessed**  
47 **under subsection 1 of this section for the current citation plus all the**  
48 **finest assessed against the violator during the thirty-six-month period**  
49 **prior to the date the citation was issued.**

50 **4. The proceeds of any surcharge assessed under subsection 3 of**

51 **this section shall be deposited into the "Water Pollution Enforcement**  
52 **Fund", which is hereby established and shall be administered by the**  
53 **department. One half of all moneys in the fund shall be utilized**  
54 **exclusively to enforce the provisions of this section, and one half of all**  
55 **the moneys in the fund shall be transferred at least annually to the**  
56 **state school moneys fund as established in section 166.051, RSMo, and**  
57 **distributed to the public schools of this state in the manner provided**  
58 **in section 163.031, RSMo.**

59 **5. Notwithstanding the provisions of section 33.080, RSMo,**  
60 **moneys in the water pollution enforcement fund shall not revert to**  
61 **general revenue. The state treasurer shall invest the moneys from the**  
62 **fund in the same manner as other state funds are invested. Interest**  
63 **accruing to the fund shall be deposited in the fund and shall not be**  
64 **transferred to general revenue.**

65 **6. Any person who knowingly makes any false statement, representation**  
66 **or certification in any application, record, report, plan, or other document filed**  
67 **or required to be maintained pursuant to sections 644.006 to 644.141 or who**  
68 **falsifies, tampers with, or knowingly renders inaccurate any monitoring device**  
69 **or method required to be maintained pursuant to sections 644.006 to 644.141**  
70 **shall, upon conviction, be punished by a fine of not more than ten thousand**  
71 **dollars, or by imprisonment for not more than six months, or by both.**

72 **[3.] 7. Any person who willfully or negligently commits any violation set**  
73 **forth pursuant to subsection 1 of this section shall, upon conviction, be punished**  
74 **by a fine of not less than two thousand five hundred dollars nor more than**  
75 **twenty-five thousand dollars per day of violation, or by imprisonment for not**  
76 **more than one year, or both. Second and successive convictions for violation of**  
77 **the same provision of this section by any person shall be punished by a fine of not**  
78 **more than fifty thousand dollars per day of violation, or by imprisonment for not**  
79 **more than two years, or both.**

80 **[4.] 8. The liabilities which shall be imposed pursuant to any provision**  
81 **of sections 644.006 to 644.141 upon persons violating the provisions of sections**  
82 **644.006 to 644.141 or any standard, rule, limitation, or regulation adopted**  
83 **pursuant thereto shall not be imposed due to any violation caused by an act of**  
84 **God, war, strike, riot, or other catastrophe.**